

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date July 18, 2017
Dept. Development Services Department

Item Title: **Ordinance No. 446 – Zoning Amendment ZA1-500-0002 Amending the Alcoholic Beverage Sales Regulations and the General Commercial Zoning District Regulations to Allow for Light Manufacturing, Brewpubs, Wine Bars and Related Accessory Uses**

Staff Contact: David De Vries, Development Services Director
Mike Viglione, Assistant Planner

Recommendation:

1) Conduct the second reading, by title only, and adopt Ordinance No. 446 (Attachment A)

Item Summary:

On June 20, 2017, the City Council introduced Ordinance No. 446 (Attachment A). This ordinance amends Lemon Grove Municipal Code (LGMC) Title 17, Zoning, and Title 18, Citywide Regulations. The ordinance specifically modifies the General Commercial (GC) Zoning District regulations in Section 17.16.070 of the LGMC to allow brewpubs and wine bars and light manufacturing businesses in conjunction with retail. Alcoholic Beverage Sales regulations in Chapter 18.27 of the LGMC are also amended to allow alcoholic beverage light manufacturing land uses as incidental alcoholic beverage sales land uses and permit by-right accessory uses that are common to breweries. The Ordinance also exempts alcoholic beverage manufacturers from the prohibition on the sale of alcohol in single-serve containers equal to or greater than 32 ounces. Those revisions to the ordinance that were read into the record during the Council hearing are incorporated, and are featured in bold text. This bolded text serves strictly to highlight revisions to the ordinance and has no legal meaning. If adopted, the ordinance becomes effective August 15, 2017.

Fiscal Impact:

None.

Environmental Review:

- | | |
|--|--|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Exempt, Section 15307 and 15308 | <input checked="" type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Tribal Government Consultation Request |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Notice to property owners within 500 ft. | |

Attachments:

A. Ordinance No. 446 – ZA1-500-0002

ORDINANCE NO. 446

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AMENDING CHAPTER 18.27 (ALCOHOLIC BEVERAGE SALES REGULATIONS) AND SECTION 17.16.070 (GENERAL COMMERCIAL ZONING DISTRICT REGULATIONS) OF THE LEMON GROVE MUNICIPAL CODE TO ALLOW FOR LIGHT MANUFACTURING, BREWPUBS, WINE BARS AND RELATED ACCESSORY USES

WHEREAS, staff has received several inquiries and business license proposals from prospective alcoholic beverage manufacturers to open a related business within the City; and

WHEREAS, allowing and encouraging alcoholic beverage manufacturing and related accessory uses is found to be an important economic development strategy. Alcoholic beverage manufacturers create employment opportunities, revitalize property, stimulate economic development, create regional destinations that attract visitors, and provide increased tax revenue; and

WHEREAS, on June 20, 2017, a public hearing was duly noticed and held by the Lemon Grove City Council; and

WHEREAS, the City of Lemon Grove conducted an environmental assessment for Zoning Amendment ZA1-500-0002 on May 25, 2017. A Mitigated Negative Declaration (MND) of Environmental Impact will be filed subsequent to the adoption and final approval of the proposed project. The Initial Environmental Study prepared for this project identified potential environmental impacts related to noise from indoor live music and outdoor patios. Mitigation measures included compliance with noise regulations; patio areas are required to have appropriate barriers and interior spaces will require double entry doorways, appropriate STC rated windows with a closed window and door condition and a HVAC system when live music is proposed. A noise analysis may alternatively be prepared to identify appropriate noise mitigations; and

WHEREAS, the City Council finds that the following findings required to approve a Zoning Amendment can be made in accordance with Section 17.28.080(B) of the Municipal Code:

1. That the proposed amendment is consistent with the General Plan, in accordance with Government Code Section 65860, as amended.
 - Provisions for alcoholic beverage sales and manufacturing uses include implementation of and consistency with General Plan goals and policies including encouraging redevelopment of the Broadway corridor to attract regional shoppers; fostering revitalization of the light industrial district; pursuing new local entertainment opportunities; cultivating small businesses; and encouraging outdoor dining.
2. That the public health, safety, and general welfare benefit from the adoption of the proposed amendment.
 - Allowing alcoholic beverage sales manufacturers improves property aesthetics, increases employment and services to the site thereby increasing “eyes on the street” in the surrounding area where the manufacturer is located and attracts economic development and visitors to the City. Also, the prohibition of single-serving alcoholic beverages will reduce public consumption of alcoholic beverages ensuring appropriate

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safety measures are taken to benefit the public health, safety and general welfare of the community; and

WHEREAS, the City Council has considered the following findings of fact, as required by Section 18.27.050 of the Lemon Grove Municipal Code (LGMC) for allowing alcoholic beverage manufacturing businesses with accessory uses within commercial and industrial zones:

1. Whether the proposed use will result in an undue concentration of establishments selling alcoholic beverages as defined by the State Alcoholic Beverage Control Department (ABC) or by City ordinance or policy.
 - The City Council finds that the proposed project will result in an over-concentration of establishments selling alcoholic beverages within Census Tract 144, however, because permits for off-sale alcohol uses in the entire City are less than what is allowed (16 exist; approximately 20 allowed), there will not be an undue concentration for the City as a whole and the proposed zoning amendment will not result in an undue concentration of establishments selling alcoholic beverages in the City.
2. Whether the approval of the proposed use will violate the minimum requirements, set forth in Chapter 18.27, for distance separations between establishments which sell, serve or give away alcoholic beverages; and separations between establishments which sell, serve or give away alcoholic beverages and other specific land uses.
 - The City Council finds that the proposed zoning amendment continues to support separation and minimum requirements to limit alcoholic beverage sales businesses within the City.
3. Whether the proposed use will be located in an area which, based on the most recent yearly compilation by the San Diego County Sheriff's Department or other appropriate law enforcement agency, has experienced a greater than average number of reported crimes and arrests, including those reported as alcohol-related, as well as, criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, motor vehicle theft combined with all arrests for other crimes, felonies and misdemeanors, except traffic citations.
 - The City Council finds that the City includes Census Tract 144, which is shown to have high crime (137.9% of average), however, the proposed zoning amendment, which includes allowing alcoholic beverage sales manufacturers, improves property aesthetics and encourages redevelopment, increases employment and services to the site thereby increasing "eyes on the street" in the surrounding area where the manufacturer is located and attracts economic development and visitors to the City. Also, the prohibition of single-serving alcoholic beverages will reduce public consumption of alcoholic beverages and is consistent with Sheriff staff public safety recommendations; and

WHEREAS, based on crime statistics and number of alcohol beverage sales licenses within Census Tract 144, the State Department of Alcoholic Beverage Control (ABC) has determined that there is an over-concentration of licenses (two permitted; 10 exist) and that there is a higher than average crime rate in the Census Tract that the subject property is located in (137.9% of average) and as a result, ABC requires that the governing body determine that public convenience or necessity would be served by the issuance of this license.

- The City Council finds that public convenience and necessity would be served by allowing alcoholic beverage sales manufacturers within the City based on findings stated herein; and

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NOW, THEREFORE, the City Council of the City of Lemon Grove hereby ordains as follows:

SECTION ONE:

ENVIRONMENTAL FINDING. The City Council finds in its independent judgment that the proposed amendment to the Municipal Code could not have a significant effect on the environment and certifies Mitigated Negative Declaration ND17-02.

SECTION TWO:

Amendments to Chapter 18.27 (Alcoholic Beverage Sales Regulations) and Section 17.16.070 (General Commercial Zoning District Regulations) of the Lemon Grove Municipal Code to Allow for Light Manufacturing, Brewpubs, Wine Bars and Related Accessory Uses, are hereby added to the City of Lemon Grove Municipal Code to read as shown in Exhibit A.

INTRODUCED by the City Council on June 20, 2017.

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EXHIBIT A

TEXT OF PROPOSED REGULATIONS

NOTE:

- Text proposed to be added is displayed in underlined type.
- Text proposed to be deleted is displayed in strikethrough type.

The City of Lemon Grove Municipal Code to amend Zoning District Regulations for the General Commercial Zone, Section 17.16.070, and to amend the Alcoholic Beverage Sales Regulations, Chapter 18.27, to read as follows:

17.16.070 General commercial (GC) zone. [Excerpts Only]

A. Purpose. The general commercial (GC) zone is available to auto-oriented, generally large-scale businesses and activities offering retail goods and services meant to serve the needs of local and regional shoppers. These regulations establish development standards and conditions through which uses may be located in this zone. All uses shall be subject to the applicable regulations of this title.

B. Permitted Uses. Uses that are consistent with the following categories, as determined by the development services director, are permitted by right, as verified by zoning clearance:

1. Animal Sales and Services—Pet Supplies. Uses that provide sales of pet supplies including feed and grain. Facilities and operations shall comply with all standards set forth in this title.

2. Animal Sales and Services—Grooming. Uses that provide animal grooming, with or without the sale of supplies, for household pets and small farm animals as defined in LGMC Chapter 18.16. Facilities and operations shall comply with all standards set forth in this title.

3. Brewpubs and wine bars as defined by Chapter 18.27.

~~34.~~ Business and Professional. Uses related to the practice of a vocation requiring specialized training or education that can be performed in an office setting.

~~45.~~ Business Support. Uses that provide printing, copying, photographic, computer, or technological services.

~~56.~~ Educational and Training Facilities. Uses that provide classroom-style instruction for occupancies less than fifty persons as determined by the building official.

~~67.~~ Financial Institutions. Uses related to the exchange, lending, borrowing, and safe-keeping of money.

~~78.~~ Food and Beverage Establishments with Drive-Through. Uses that prepare, provide, or serve food or beverages for consumption on or off the premises that may include drive-through service. Alcoholic beverage sales shall be subject to LGMC Chapter 18.27.

~~89.~~ Funeral and Mortuary Services—No Assembly Space. Uses that provide services related to the death of a human (without crematoria). This use does not include assembly space.

~~910.~~ Government. Uses related to local, state, or federal government agencies in an office setting.

11. Light Manufacturing. Uses that process, fabricate, assemble, treat, or package finished parts or products, of a limited intensity that result in few outside impacts. This use requires a retail component along the entire street frontages.

~~40~~12. Maintenance and Repair of Consumer Goods. Uses that provide maintenance, cleaning, and repair services for consumer goods. This use does not include vehicle repair uses.

~~44~~13. Medical, Dental, Clinics and Health Practitioners. Uses related to diagnosis and treatment of human illness and physical malfunction, including medical and dental laboratories that can be performed in an office setting.

~~42~~14. Parking. Uses that provide surface or structure parking for passenger vehicles. Parking areas may be public or privately-owned and managed.

~~43~~15. Personal Services. Uses that provide a variety of services associated with personal grooming or adornment, health maintenance, or well-being.

~~44~~16. Recreation—Small. Uses or facilities associated with indoor or outdoor, active or passive recreation for indoor occupancies less than fifty persons as determined by the building official and outdoor occupancies less than fifty persons as determined by the community development director.

~~45~~17. Retail. Uses that provide new consumer goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics; goods for personal grooming or day-to-day maintenance of personal health and well-being. This use includes, but is not limited to, furniture, appliances, sundries, pharmaceuticals, wearing apparel and accessories, small equipment sales and rentals. This use does not include vehicle uses.

~~46~~18. Retail—Antiques. Uses that provide antique goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics.

~~47~~19. Vehicle Equipment and Supplies Without Installation. Uses related to the sale of new or used parts, tools or supplies for repairing or maintaining vehicles. This use does not include on-site installation.

Chapter 18.27 ALCOHOLIC BEVERAGE SALES

18.27.010 Statement of necessity.

A. The city council finds and determines that the sale and use of alcoholic beverages contributes to problems encountered by residents, businesses, property owners, visitors and workers of the city of Lemon Grove. Documented problems include: (1) debilitating and life-threatening medical conditions such as those related to the dysfunction of the heart and circulatory system, stroke and diseases of the liver; (2) social problems such as child and family neglect and abuse, public drunkenness, and lost productivity; (3) public safety issues relating to drunk driving and related automobile traffic and pedestrian accidents, violence and crime.

B. The city council finds and determines that, without the appropriate regulation, the sale, service and use of alcoholic beverages may adversely and seriously affect the peace, health, safety and welfare of residents of the community and may specifically affect the safety of

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children and of visitors to the city, may contribute to the deterioration of neighborhoods, cause devaluation of property, erode community values and lower the quality of life.

C. The city council finds that relatively high densities of alcohol outlets are associated with relatively higher rates of related medical disorders, relatively higher rates of social problems and alcohol-related traffic casualties.

18.27.020 Purpose.

A. To deal with and ameliorate problems and adverse conditions associated with establishments which sell, serve or give away alcoholic beverages by restricting the location of such uses in relation to one another, and their proximity to facilities primarily devoted to use by children and families and the general public, and through the denial of a conditional use permit or through the imposition of conditions on a case by case basis, thereby preventing undue concentration and undesirable community impact of such uses, and by the imposition of reasonable conditions upon the operation of all such uses both existing and in the future.

B. To implement the purposes, policies, and programs of the general plan.

18.27.030 Definitions.

The following words and phrases are specifically defined to apply to the regulations of this chapter. Where words are not defined here or elsewhere in this municipal code, their common meaning shall apply.

A. "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

B. Alcoholic Beverage Sales, Incidental.

1. Alcoholic beverage sales in restaurants shall be considered incidental if all of the following conditions exist:

- a. Alcoholic beverages are sold for consumption on the premises only;
- b. The primary purpose of the establishment is sit-down dining with table service;
- c. The restaurant contains a fully equipped kitchen, which is utilized each day of business operation for preparation of meals to be served to patrons;
- d. Full food service is available in the restaurant for all hours that the facility, including the bar or cocktail lounge, is open;
- e. Take-out food service, if any, is only incidental to the primary use, sit-down food service;
- f. The restaurant offers no drive-up or drive-through service and does not have a take-out window.
- g. A separate bar or cocktail lounge may be located on the premises (subject to the provisions set forth in Section 17.28.050 conditional use permits, of the city of Lemon Grove development code);

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h. ~~No alcoholic beverage is served in conjunction with any recreational activity, any game of skill or chance, any athletic event or any form of adult entertainment~~ in accordance with Chapter 18.28.

2. Alcoholic beverage sales in food stores other than convenience markets shall be considered incidental when the shelving or display area allocated to alcoholic beverages does not exceed more than ten percent of the total shelf and display area within the store;

3. Alcoholic beverage sales in drug stores with a floor area greater than ten thousand square feet, with or without the sale of household merchandise, beauty supplies, toiletries, and packaged food products, shall be considered incidental when the shelving or display area allocated to alcoholic beverages does not exceed six percent of the total shelf and display area within the store.

4. Brewpubs, wine bars, rectifiers, and alcoholic beverage manufacturers with accessory on- and off-sale alcoholic beverage sales including, but not limited to, tasting rooms and off-sale alcoholic beverages that are manufactured on-site with catering permitted on-site shall be considered incidental provided performance standards in Section 17.24.080(E) are adhered to.

5. Accessory indoor music and outdoor consumption of alcoholic beverages within a private fenced area shall be considered incidental provided noise regulations within Section 9.24.080(B) are adhered to during the hours between 7 P.M. to 7 A.M.

C. "Brewpub" means a small primary or accessory beer manufacturer, which may include a restaurant, where the alcohol is produced exclusively at its own premises and sold for on- and/or off-site consumption. This operation allows the sale of other supplier's alcohol for consumption on its own premises.

CD. "Convenience markets" means, for purposes of this chapter, any store selling food and household merchandise to the public, which has a floor area less than ten thousand square feet.

DE. "Establishment" means a place of business with its furnishings and staff which may be regarded as the smallest unit conveyable by sale, rent or lease.

EE. "Notice and order" means the community development director's written notice and order to a business or facility owner or operator which directs such owner or operator to comply with city regulations and the specific requirements of the conditional use permit or ~~minor use permit~~ zoning clearance authorizing the operation of the business or facility which sells, serves or gives away alcoholic beverages.

FG. "Off-sale liquor establishment" means any establishment wherein alcoholic beverages are sold or given away for consumption off the premises including but not limited to any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including types 20 and 21.

H. "On-sale liquor establishment" means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any establishment which is applying for or has obtained a California Department of Alcoholic Beverage Control license types 41, 42, 47, 48, 51, 52 and 63.

I. "Rectifier" means to cut, blend, rectify, mix, flavor and color distilled spirits and wine upon which excise tax has been paid and, whether rectified by the licensee or another person.

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to package, label, export and sell the products to persons holding licenses authorizing the sale of distilled spirits.

J. “Tasting Room” means an area used for accessory alcoholic beverage retail consumption on the premises where the alcoholic beverages are produced.

K. “Wine bar” means a small primary or accessory wine beverage manufacturer, which may include a restaurant, where the wine is produced exclusively at its own premises and sold for on- and/or off-site consumption. This operation allows the sale of other supplier’s alcohol for consumption on its own premises.

H.L. Substantial Change in Mode or Character of Operation. Any of the following actions or situations will constitute a “substantial change in mode or character of operation” for purposes of this chapter:

1. The establishment changes its type of retail liquor license within a license classification; or

2. The establishment ceases operation for a period of thirty-one days. The suspension of business during the diligent prosecution of building repairs or remodeling undertaken under the authority of a valid building permit shall not be considered a substantial change in the mode or character of operation if the repairs or remodeling do not change the nature of the licensed premises and do not increase the square footage of the area which constitutes the establishment;

3. Any addition exceeding ten percent of the existing floor area is made to the building or portion of a building occupied exclusively by a business which sells or serves alcoholic beverages and which would be subject to approval by conditional use permit, if being established as a new use;

4. Any modification, remodeling or renovation of an existing building, or portion thereof, occupied exclusively by a business or facility which sells or serves alcoholic beverages, when the value of such modification, remodeling, or renovation exceeds fifty percent of the replacement value of the subject premises as determined by the building official;

5. The establishment is found to be a public nuisance by the city council;

6. The California Department of Alcoholic Beverage Control has held a formal hearing regarding accusations of violations, by the establishment, of ABC rules and has determined that such violations have occurred.

H.M. Timely Compliance.

1. For all violations involving the unauthorized enlargement or physical modification to the existing building, facility or outdoor service area, timely compliance means complete removal of the physical modifications which constitute the violation or submittal of detailed working drawings sufficient for an application for building permit and a complete application for modification of the conditional use permit or ~~minor use permit~~ zoning clearance which authorizes the business or facility. Evidence of the complete removal of unauthorized work, or the working drawings and complete application shall be filed in the office of the ~~community~~ community development services department within fifteen calendar days following the receipt of the ~~community~~ development services director’s notice and order by the owner, operator or employee-in-charge of the business or facility.

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2. For all violations, other than those described in subsection ~~HL~~ of this section, such as, but not limited to, the sale or display of unauthorized fortified wines, the display of unauthorized advertising signs, exceeding shelf area limitations; “timely compliance” means full compliance within twenty-four hours following receipt of the ~~community~~ development services director’s notice and order by the owner, operator or employee-in-charge of the business or facility.

18.27.040 General provisions.

A. Alcoholic Beverage Sales or Service, New and Substantial Changes. Except as otherwise stated herein, on and after the effective date of the ordinance creating this chapter, no place, facility or business wherein alcoholic beverages are sold, served or given away for on-site or off-site consumption, shall be established or shall affect a “substantial change” in mode or character of operation as defined in Section 18.27.030(G) without first obtaining a conditional use permit, or modification of an existing conditional use permit, pursuant to Section 17.28.050 of the zoning ordinance. A ~~minor use permit, or modification of a minor use permit,~~zoning clearance shall be required if alcoholic beverage sales or services are “incidental” as defined in Section 18.27.030(B).

B. Alcoholic Beverage Sales or Service, Not Authorized by CUP or ~~MUP~~zoning clearance. Except for those places, businesses and facilities described in subsection A of this section as an establishment having a conditional use permit or ~~minor use permit~~zoning clearance and being in full or substantial compliance with current requirements, on and after the effective date of the ordinance creating this chapter, all existing places wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption shall be considered nonconforming uses. Elimination of nonconforming status may be achieved by filing the appropriate application, receiving a conditional use permit or ~~minor use permit~~zoning clearance as required by this chapter, and complying with conditions of approval which shall be limited to the minimum conditions of approval as set forth in Sections 18.27.060(A) and (B). These requirements shall be enforced according to the provisions of subsection C of this section. For existing businesses selling alcoholic beverages, the requirements of this chapter relating to minimum separations between the existing business, similar establishments and other specific land uses shall be waived.

C. Alcoholic Beverage Sales or Service—Enforcement. The alcoholic beverage sales ordinance shall be enforced according to the provisions of Section 18.27.120 of the development code and Section 17.28.020 of the zoning ordinance. (Ord. 386 § 3, 2009)

18.27.050 Findings.

In addition to the findings required for the granting of conditional use permits by Section 17.28.050 of the zoning ordinance, the decision making authority shall consider the following:

A. Whether the proposed use will result in an undue concentration of establishments selling alcoholic beverages as defined by the state Alcoholic Beverage Control Department (ABC) or by city ordinance, resolution, or policy.

B. Whether the approval of the proposed use will violate the minimum requirements, set forth in this chapter, for distance separations between establishments which sell, serve or give

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away alcoholic beverages; and separations between establishments which sell, serve or give away alcoholic beverages and other specific land uses.

C. Whether the proposed use will be located in an area which, based on the most recent yearly compilation by the San Diego County sheriff's department or other appropriate law enforcement agency, has experienced a greater than average number of reported crimes and arrests, including those reported as alcohol-related, as well as, criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, motor vehicle theft combined with all arrests for other crimes, felonies and misdemeanors, except traffic citations. (Ord. 386 § 3, 2009)

18.27.060 Minimum conditions of approval.

A. Businesses or facilities providing alcoholic beverages for off-site consumption shall comply with the following minimum conditions of approval. However, the ~~planning commission, or city council on appeal,~~ may impose such additional conditions and restrictions as found necessary or desirable to achieve the purposes of this chapter.

1. No alcoholic beverages shall be consumed on the premises under the control of the business owner or the property owner, excepting when alcoholic beverages are manufactured on the premises.

2. Adequate litter receptacles shall be provided.

3. All display of alcoholic beverages shall be located a minimum of five feet from the store entrance.

4. For establishments which sell or give away alcoholic beverages and also sell gasoline, no signs advertising alcoholic beverages may be visible from the exterior of the building. Except for liquor stores, the signage for which shall be governed by conditional use permit and the city sign ordinance, signage advertising alcoholic beverages for all other establishments selling alcoholic beverages for off-premises consumption shall be limited to no more than fifty percent of the temporary window display permitted by the sign ordinance (twelve and one-half percent of total window area). Not more than two neon signs which hang on the inside of a window may be permitted subject to, and deducted from, the area limitations established in this subsection. No reference to liquor, any alcoholic beverage or product, or alcoholic beverage brand name may be included in any permanent signage for any establishment selling alcoholic beverages for off-site consumption other than that displayed by liquor stores or alcoholic beverage manufacturers when they are on the premises.

5. No wine shall be displayed, sold or given away in containers of less than seven hundred ml, except multipack containers of wine and wine coolers containing no more than ~~six~~fifteen percent alcohol by volume.

6. No distilled spirits shall be displayed, sold or given away in containers of less than two hundred fifty ml, except two-hundred-ml pre-mixed cocktails.

7. The display, sale or distribution of fifty ml "airport bottles" and three-hundred-seventy-five ml "hip flask" containers is prohibited.

8. No single serve beer, ale or malt liquor shall be offered for sale in a container with a volume equal to or greater than thirty-two ounces, excepting off-sale alcoholic beverages

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from manufacturers on the premises. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, **with a volume of two or more gallons**, which are clearly designed to dispense multiple servings.

9. No wine with an alcoholic content greater than fifteen percent by volume shall be displayed, sold or given away unless the following conditions are met:

- a. The alcohol content is solely the result of the natural fermentation process; or
- b. If the alcohol content resulting from natural fermentation has been increased by the addition of wine spirits, brandy, or other alcohol, the wine must be sealed and capped by cork closure and aged for two or more years.

10. All litter shall be removed from the exterior areas around the building as required and no less frequently than once each day this business is open.

11. The operation of the business shall comply fully with all the rules, regulations and orders of the state Alcoholic Beverage Control Department. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit or ~~minor use permit~~ zoning clearance.

12. The business shall comply with all of the conditions of the conditional use permit or ~~minor use permit~~ zoning clearance which authorizes its operation.

13. For all businesses other than liquor stores, brewpubs, wine bars, rectifiers and manufacturing, warehouse, and distribution facilities, the display, sale and distribution of alcoholic beverages shall be accessory to other permitted activities. Except where Section 18.27.030(B)(3) requires a greater limitation, shelving or other display area allocated to the display of alcoholic beverages shall not exceed ten percent of the total shelf or display area within the premises.

14. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.

15. No display, sale or distribution of beer or wine, wine coolers or similar alcoholic beverages shall be made from an ice tub, ~~barrel~~ or similar container.

16. Employees engaged in the sale or distribution of alcoholic beverages shall be at least twenty-one years old, or at least one salesperson twenty-one years old or older must be on the premises during all times when alcoholic beverages are sold.

17. Businesses engaged in the sale or distribution of alcoholic beverages for off-site consumption shall maintain a minimum separation of five hundred feet from any other business required to have a conditional use permit for the sale of alcoholic beverages. This subdivision shall not apply to incidental alcoholic beverage sales and ~~the following~~:

- ~~1. Warehouses, and distribution facilities;~~
- ~~2. Food or drug stores engaged in the incidental sale of alcoholic beverages as defined in Section 18.27.030(B).~~

B. Businesses providing the sale or service of alcoholic beverages for on-site consumption shall comply with the following minimum conditions of approval. However, the ~~planning commission, or city council on appeal~~, may impose such additional conditions and restrictions as are found necessary or desirable to achieve the purposes of this chapter.

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1. Except within city-approved outdoor ~~eating~~ places which are adequately separated from direct public access via a fence or other means, no alcoholic beverages shall be consumed outside of an enclosed building.

2. For restaurants, bars, taverns and cocktail lounges, signs advertising alcoholic beverages shall be limited to no more than fifty percent of the temporary window display permitted by the sign ordinance (twelve and one-half percent of total window area). Not more than two neon signs which hang on the inside of a window may be permitted subject to, and deducted from, the area limitations established in this subsection.

3. Except for manufacturers, brewpubs, wine bars and rectifiers, ~~No~~ reference to liquor, any alcoholic beverage or product, or alcoholic beverage brand name may be included in any permanent signage for any establishment selling alcoholic beverages for on-site consumption other than that displayed by bars, taverns and cocktail lounges.

No wine with an alcoholic content greater than fifteen percent by volume shall be displayed, sold or served unless the following conditions are met:

- a. The alcohol content is solely the result of the natural fermentation process; or
- b. If the alcohol content resulting from natural fermentation has been increased by the addition of wine spirits, brandy, or other alcohol, the wine must be sealed and capped by cork closure and aged for two or more years.

4. All litter shall be removed from the exterior of the building as required and no less frequently than once each day the business is open.

5. The operation of the business or facility shall comply fully with all the rules, regulations and orders of the state Alcoholic Beverage Control Department. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit or ~~minor use permit~~ zoning clearance.

6. For all businesses and other facilities engaged in the sale or service of alcoholic beverages for on-site consumption other than bars and taverns, the sale of alcoholic beverages shall be incidental and accessory to other permitted activities.

7. Employees engaged in the sale or service of alcoholic beverages for on-site consumption shall be at least twenty-one years old.

8. Except for ~~restaurants with incidental on-site alcoholic beverage sales~~ businesses engaged in on-site consumption, businesses engaged in the sale or service of alcoholic beverages for on-site consumption shall maintain a minimum separation of one thousand feet from another business selling or serving alcoholic beverages for on-site consumption and a minimum of five hundred feet from any other business requiring a conditional use permit for the on-site or off-site sale or service of alcoholic beverages; any church or other place of worship; any public or private preschool, elementary school or high school; any public park or playground; any hospital, clinic, or other health care facility; any residential unit other than a caretaker's dwelling on a commercial or industrial property; and any property zoned for residential use. Except that existing businesses that serve alcohol and that were located closer than five hundred feet or one thousand feet from another business serving alcohol prior to adoption of the ordinance codified in this chapter shall be allowed to expand their business as long as the expansion does not violate the distance requirements from any of the designated sensitive uses identified in this section above. Based upon the particular circumstances involved, the ~~planning commission~~ City

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Council shall determine the appropriate separation between private clubs and lodges operated by recognized national, state or regional religious or fraternal order and appropriate distances between such clubs and lodges and other types of land use.

18.27.070 Measurement of distance.

A. Types of Uses.

1. “Regulated uses” are those businesses and facilities which sell, serve or give away alcoholic beverages and which have been identified in Sections 18.27.060(A)(16) and 18.27.060(B)(8).

2. “Protected uses” are churches or other places of worship; any public or private preschool, elementary school or high school; any park or playground; any hospital, clinic, or other health care facility; any residential unit other than a caretaker’s dwelling on a commercial or industrial property; and any property zoned for residential use.

B. Distance Computation.

1. When a physical separation is required between two regulated uses, the distance of such separation is measured along a straight line extending between the closest exterior structural walls of each use.

2. When a physical separation is required between a regulated use and a protected use, the distance of such separation is measured along a straight line extending between the closest exterior structural wall of the regulated use and the closest property line of the protected use.

18.27.080 Notification to alcoholic beverage control department.

A. Within five days following the city’s approval of a conditional use permit or ~~minor use permit~~zoning clearance for a business proposing to sell, serve or give away alcoholic beverages, the city will send a written notice of such approval to the local office of the State Alcoholic Beverage Control Department.

1. The notice shall include a copy of the resolution or notice of approval and will state that city approval of the business or other facility proposing to sell, serve or give away alcoholic beverages has been granted subject to compliance, by the business or facility, with certain specific conditions.

2. The notice shall indicate the final date for the filing of any appeals from the decision or conditions of approval.

3. The notice shall state clearly in its heading and text that formal city approval of the business or facility which proposes to sell, serve or give away alcoholic beverages will be withheld until the business has complied with all appropriate conditions of approval.

B. Within three working days of the city’s determination that a business proposing to sell alcoholic beverages has fully complied with all appropriate conditions of approval of a conditional use permit or ~~minor use permit~~zoning clearance, a notice regarding such full compliance will be sent to the local ABC office.

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18.27.090 Notification regarding violations.

Each time the ~~community development~~ services director determines that a business or other facility which sells, serves or gives away alcoholic beverages has violated any provision or condition of its conditional use permit, ~~minor use permit~~ zoning clearance, other city law or regulation, or any requirement of the state Alcoholic Beverage Control Department, it shall issue a written notice and order to the owner of the business or facility. The notice and order shall include the following:

- A. A requirement that the business owner or facility operator correct all violations immediately.
- B. A statement that a violation of the alcoholic beverage sales ordinance constitutes a misdemeanor subject to the general penalty provisions of this code, that conviction of a misdemeanor shall be punishable by fine or imprisonment or both such fine and imprisonment, and that each day a violation is committed or continued constitutes a separate offense.
- C. A statement that, in addition to the penalties stated in Section 18.27.080, failure to comply in a timely manner or repeated violations may result in a revocation of the conditional use permit or ~~minor use permit~~ zoning clearance which authorizes the maintenance of an establishment selling, serving or giving away alcoholic beverages.
- D. A notification that a written report of such violation or violations has been transmitted to both the owner of the property where the business or facility is being conducted or operated and to the local office of the Alcoholic Beverage Control Department.

18.27.100 Justification for revocation of approvals.

Any business establishment which has been authorized by the city to sell, serve or give away alcoholic beverages shall comply fully with all city zoning and sign regulations, with all conditions attached to the approval of its conditional use permit or ~~minor use permit~~ zoning clearance, and with all rules, regulations and orders of the State Alcoholic Beverage Control Department. Failure to comply with any of these requirements shall constitute grounds for revocation of a conditional use permit or ~~minor use permit~~ zoning clearance.

18.27.110 Hearing regarding alleged violations.

If a business or other facility which sells, serves or gives away alcoholic beverages has been declared a public nuisance; if it has been found, by the California Department of Alcoholic Beverage Control, to be in violation of ABC rules; if its owner or operator fails to comply or refuses to comply with a notice and order to correct a violation in a timely manner; or if the ~~community development~~ services director, on three separate occasions within any twelve-month period, has issued a written notice and order to the owner of said business or operator of the facility, pursuant to Section 18.27.080, requiring the correction of specific violations of its conditional use permit or ~~minor use permit~~ zoning clearance; the ~~planning commission~~ City Council will schedule a public hearing, consistent with the requirements of Section 17.28.020 of the zoning ordinance to consider these matters. Following such public hearing, the ~~planning commission~~ City Council may make any findings which it believes to be supported by the facts presented in the hearing, including the following:

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A. It may find that the alleged violation(s) did not occur, were beyond the control of the business owner or facility operator, or were insignificant.

B. It may find that the alleged violation(s) did occur, that they were the responsibility of the business owner or facility operator, and were significant. As part of its determination regarding the appropriate action to be taken, the ~~planning commission~~City Council may consider whether the violations were corrected immediately after being brought to the owner's or facility operator's attention, whether such violations constitute a minor or major violation of this chapter and its purpose and intent, and whether such violations appear to constitute a pattern of disregard for the city's laws and the standards of the community. (Ord. 386 § 3, 2009)

18.27.120 City actions in response to violations.

If, after a public hearing and full examination of the evidence regarding alleged violations of the city's regulations governing the sale, service or distribution of alcoholic beverages, the ~~planning commission~~City Council makes findings similar to those stated in Section 18.27.110(A) it may choose to take no action against the owner of the subject business or operator of the subject facility. However, if the evidence submitted in the public hearing convinces the ~~planning commission~~City Council that a significant violation has occurred, it may take one or more of the following actions:

A. Imposition of additional conditions governing the physical design of the building or property where the business is conducted or the facility is operated.

B. Attachment of additional conditions or limitations affecting the operations of the business or facility.

C. The ~~planning commission~~City Council may determine that the business or facility, and its manner of operation, constitutes a serious threat to the preservation of the public health, safety and welfare and may take one or both of the following actions:

1. It may revoke the conditional use permit or ~~minor use permit~~zoning clearance which authorizes the business or facility to sell, serve or give away alcoholic beverages.

2. It may recommend that the city council declare that the business or facility is a public nuisance subject to abatement or enjoinder in the manner provided by law.

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